

In the Claims

Please cancel claims 1-27. The status of the claims are as follows:

Claims 1-27 (cancelled)

Claims 28-59 (withdrawn)

Claim 60. (original) An isolated and purified peptide comprising an enzymatically inactive SCP.

Claim 61. (original) The peptide of claim 60 wherein the vaccine comprises a variant of a streptococcal C5a peptidase that has reduced binding activity as compared to wild-type SCP.

Claim 62. (original) The peptide of claim 60, wherein the SCP is expressed from an isolated DNA sequence encoding SCP.

Claim 63. (original) The peptide of claim 60 wherein the SCP has a specificity crevice or catalytic domain.

Claim 64. (original) The peptide of claim 63 wherein the SCP comprises a specificity crevice.

Claim 65. (original) The peptide of claim 64 wherein the DNA encodes an SCP that comprises contiguous amino acid residues from about residue 260 to residue 417.

Claim 66. (original) The peptide of claim 64 wherein the DNA encodes one or more of amino acid residues 260, 261, 262, 415, 416 or 417.

Claim 67. (original) The peptide of claim 63 wherein the SCP has a catalytic domain.

BEST AVAILABLE COPY

Claim 68 (original). The peptide of claim 67 wherein the DNA encodes an SCP that comprises contiguous amino acid residues from about residue 130 to residue 512.

Claim 69. (original) The peptide of claim 67 wherein the DNA encodes one or more of amino acid residues 130, 193, 295 or 512.

Claim 70. (original) The peptide of claim 60 wherein the SCP is a variant of wild-type SCP in that the variant SCP has a modification at one or more of amino acid residues 260, 261, 262, 415, 416, 417, 130, 193, 295 or 512.

Claim 71. (original) The peptide of claim 70 wherein the SCP is a variant of wild-type SCP in that the variant SCP has a substitution at one or more of amino acid residues 260, 261, 262, 415, 416, 417, 130, 193, 295 or 512.

Claim 72. (original) The peptide of claim 71 wherein the substitution is a conserved substitution.

Claims 73-74 (withdrawn)

Claim 75. (original) The peptide of claim 60 wherein the peptide varies from native SCP in that it does not contain a signal sequence.

Claim 76. (original) The peptide of claim 60 wherein the peptide varies from native SCP in that it does not contain a cell wall insert.

Claim 77. (original) The peptide of claim 60 wherein the SCP is a variant of SCP from group A *Streptococcus*, group B *Streptococcus*, group C *Streptococcus* or group G *Streptococcus*.

BEST AVAILABLE COPY

78. (original) The peptide according to claim 77, wherein the *Streptococcus* is Group A *Streptococcus*.

122
Claims 79-98 (withdrawn)

BEST AVAILABLE COPY

Election of Restriction Group and Species

Applicant elects with traverse Group 14 (pending claims 70 and 71) in response to the Restriction Requirement mailed November 12, 2002. The examiner indicates that pending claims 60-69, 72, and 75-78 are linking claims to Group I (pending claims 70 and 71) and will be joined with Group 14 if elected. Thus, claims 1-27 have been cancelled, claims 60-72 and 75-78 are currently under examination, and claims 28-59, 73-74 and 79-98 are withdrawn.

The examiner has further indicated that if Group 14 is elected, then Applicant must "elect a variant with one of the amino acid substitutions." Applicant presumes that this is an Election of Species Requirement of a Markush-type claim. Applicant elects amino acid 193 for initial search and examination. The claims reading on this election are claims 60-63, 67-72 and 75-78.

Applicant respectfully traverses the Restriction Requirement. The Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of an application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. M.P.E.P. § 803. In light of this, it is submitted that Applicant should not be required to incur additional costs associated with the filing of multiple divisional applications in order to obtain protection for the claimed subject matter.

The examiner is reminded that M.P.E.P. § 803.02 states that "if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions. In such a case, the examiner will not . . . require restriction. [S]hould no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended . . . to the extent necessary to determine patentability of the Markush-type claim."

Applicant respectfully traverses the Election of Species Requirement associated with the election of Group I. The members of the Markush group in claims 70 and 71 are few in number; *i.e.*, only ten members. Thus, a search and examination of the entire claim can be made without

serious burden on the examiner. Further, the examiner is reminded that if no prior art is found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended to the extent necessary to determine patentability of the Markush-type claim.

Information Disclosure Statement

Applicant submitted an Information Disclosure Statement and a 1449 Form on May 30, 2001. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

Conclusion

Applicant respectfully requests a favorable examination of the merits of this patent application. Please charge any additional fees deemed necessary to Deposit Account 19-0743.

Respectfully submitted,

P. PATRICK CLEARY ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6961

Date 24 February 2003 By Ann S. Viksnins
Ann S. Viksnins
Reg. No. 37,748

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 24th day of February 2003.

Name Dawn M. Koole

Signature Dawn M. Koole

BEST AVAILABLE COPY